IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4404 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BS SOLANKI

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MR JS BRAHMBHATT for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 23/06/2000

ORAL JUDGEMENT

#. I have heard the learned counsel on behalf of the petitioner-Gujarat State Road Transport Corporation hereinafter referred to as the Corporation). I have also heard the learned counsel on behalf of the respondent.

#. The respondent B.S.Solanki was appointed as a conductor under the petitioner Corporation. While working in the capacity of conductor the respondent remained absent without any information and unauthorisedly from 28.3.90 to 13.4.90. Since there was no information about the respondent he was asked to join duties but inspite of that he did not join duties in time and therefore the petitioner Corporation started disciplinary proceedings against the respondent. The disciplinary proceedings has been completed and after completion of the requirement of law, the Disciplinary Authority having satisfied about the misconduct committed by the respondent, he was dismissed from service by order dated 17.7.1990. Having felt aggrieved by the order of dismissal the respondent took the matter to the Labour Court for adjudication of the dispute. The Labour Court Nadiad after hearing the parties and after taking evidence, by order dated 2.3.1997 in Ref.(LCN) No. 678 of 1990 set aside the order of dismissal and directed the petitioner Corporation to reinstate the respondent in service with 50 percent of back wages. The learned counsel for the petitioner submitted that the Labour Court did not find any illegality or irregularity in the disciplinary proceedings and therefore, the Labour Court should not have interfered with the punishment order issued by the disciplinary authority. The learned counsel for the petitioner submitted that the respondent also did not raise the question about the legality of the proceedings against him. The learned counsel for the petitioner submitted that if such unauthorised absence is allowed to continue then there will be total chaos in the administration of the petitioner Corporation and there will be no discipline amongst the employees of the Corporation. The learned counsel therefore, submitted that the Labour Court should not have interfered with the order of dismissal and therefore, the order of the Labour Court reinstating the respondent with 50 percent back wages should be quashed. The learned counsel for the respondent submitted that the punishment awarded to the respondent is disproportionate to the offence alleged to have been committed by the respondent. The learned counsel for the respondent further submitted that the respondent was prevented by sufficient cause from attending the office and the Labour Court has rightly taken into consideration that for such minor offence the respondent does not deserve the order of dismissal from service. The learned counsel for the respondent accordingly submitted that the Labour Court has rightly taken a lenient view regarding punishment in view of the offence alleged to have been committed by the respondent.

#. I have gone through the judgment and award of the Labour Court and after hearing the learned counsel for both the parties, I am of the view that the Labour Court has taken a liberal view in the matter of punishment. However, the offence alleged to have been committed by the respondent does not deservde punishment of penalty of dismissal from service. But so far as payment of 50 percent back wages is concerned, I am of the view that the Labour Court has taken a very lenient view and the respondent should not have been awarded 50 percent of the back wages to the respondent when there was nothing to show that there is any illegality or error in the disciplinary proceedings. Considering the facts and circumstances of the case I am of the view that payment of 35 percent back wages to the respondent will meet the ends of justice. It is submitted by the learned counsel for both the parties that the respondent has attained the age of superannuation and he cannot be reinstated at this stage. In view of this fact payment of back wages will be confined to 35 percent till the date of retirement of the respondent With the aforesaid modification and direction the petition is partly allowed. Rule is made absolute to the aforesaid extent. No order as to costs.

(P.K.Sarkar.J)

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